(21)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

M.A. No. 823 OF 2005

APPELLANTS/ CLAIMANTS

1) Smt. Ranmat Bai, aged about 32 years, Widow of late Shri Vijay Kumar Dhruve
2) Ku. Roshni, aged about 9 years, daughter of late Shri Vijay Kumar Dhruve
3) Sukes Kumar, aged about 1 year, S/o late Vijay Kumar Dhruve, on behalf of appellant No. 2 and 3 mother, the natural guardian i.e. Smt. Ranmat Bai

Residents of Kadhala, Post and P/S Gadhi, District Balaghat (MP) at present Village Gondwara, Post Sarora Urla, District Raipur (C.G.)

Versus

RESPONDENTS/ NON-APPLICANTS

1) S. Gunnaidu, S/o late Shri Amanna Telgu, through Sai Krishna Transport, Bhanpuri Post Beergaon P/S Khamtarai, Tahsil and District Raipur (Driver of Truck No. AP-16 W 8115)
2) Venkat Rao, S/o Chinnaidu, through Sai Krishna Transport, Bhanpuri Post Beergaon P/S Khamtarai, Tahsil and District Raipur (Owner of Truck No. AP-16 W 8115)
3) National Insurance Company Ltd. Through Divisional Manager, National Insurance Company Ltd., G.E. Road, Raipur (C.G.). (Insurer of Truck No. AP-16 W 8115)

Present:

Mr. S.C. Verma, learned counsel for the appellants.

Mr. Ali Asgar, learned counsel assisting Mr. Prashant Jayaswal, learned Sr. Advocate for respondent No.3.

ORAL ORDER
(Passed on 12th of December 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

(22)

In a death case, the dependants of the deceased not being satisfied with the compensation awarded by the MACT, have preferred this appeal. Learned counsel for the appellants contended (i) that the MACT is not justified in taking the income of the deceased at Rs. 4,000/- per month for assessing loss of dependency; (ii) that having regard to the age of the deceased on the date of accident, appropriate multiplier to be applied for assessing loss of dependency is 17 and not 16, as has been done by the MACT and (iii) that what is awarded towards conventional heads of 'loss of consortium' and 'loss of love and affection' is very much on lower side.

We do not find any merit in the first contention. It is true that A.W.-3 in his evidence has deposed that the deceased was earning Rs. 7000 - 8000/- per month doing contract work, but, admittedly the appellants/claimants have not adduced any substantive evidence to show that the deceased was in fact earning on average monthly income of Rs. 7000-8000/- per month. The A.W. 3 did not produce any document in support of his oral assertion.

The deceased was aged 35 years on the date of the accident. Therefore, as per the second Schedule, the MACT ought to have applied multiplier 17. If we apply multiplier 17, the total loss of dependency would come to Rs. 5,44,000/-. We, therefore, award compensation of Rs. 5,44,000/- towards 'loss of dependency'.

As regards the third contention advanced by learned counsel for the appellants, we are of the considered opinion that there is some force in the grievance of the appellants that what is awarded towards loss of consortium and loss of love and affection is on the lower side. Therefore,

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we award a sum of Rs. 20,000/- to the widow of the deceased towards loss of consortium and Rs. 20,000/- towards love and affection to the children of the deceased.

In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs. 5,87,000/- under the following heads :-

(i)	loss of dependency	-	Rs. 5,44,000/-
(ii)	loss of consortium	-	Rs. 20,000/-
(iii)	loss of love & affection	-	Rs. 20,000/-
(iv)	funeral expenses	-	Rs. 3,000/-
	Total		Rs. 5,87,000/-

with interest @ 6% per annum from the date of claim petition till payment. The parties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Subby